

IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT HUNTINGTON

**LUMUMBA EARLE**, individually and  
as the Personal Representative of the  
**ESTATE OF ANNIE EARLE**, deceased,

**Plaintiff,**

**Civil Action No.: 3:14-cv-29536**

v.

**CITY OF HUNTINGTON, d/b/a  
CITY OF HUNTINGTON POLICE DEPARTMENT,  
a municipal corporation, JOSH NIELD, individually  
and in his official capacity, ST. MARY'S MEDICAL  
CENTER, INC., d/b/a ST. MARY'S MEDICAL CENTER,  
TAMMY PEYTON, individually and in her official capacity,  
TARA RAMSEY, individually and in her official capacity,  
BOBBI ADAMS, individually and in her official capacity,  
MELISSA BLAGG, individually and in her official capacity,  
ANDREA HEATH, individually and in her official capacity,  
CABELL COUNTY 911, CABELL COUNTY COMMISSION,  
TED GRANT, individually and in his official capacity,  
PATRICK WATKINS, individually and in his official capacity,**

**Defendants.**

**STIPULATION AND AGREEMENT BETWEEN PLAINTIFF AND DEFENDANTS,  
CITY OF HUNTINGTON AND JOSH NIELD, REGARDING PRODUCTION OF IA  
FILE RELATED TO SUBSEQUENT INCIDENT  
INVOLVING DEFENDANT, JOSH NIELD**

NOW COME Defendants, City of Huntington and Josh Nield (Defendants), by and through counsel, Steven K. Nord, and Plaintiff, Lumumba Earle, by counsel, Richard W. Weston, pursuant to the Order of the Court concerning disclosure of the IA file pertaining to the subsequent incident which led to the discharge from employment at the Huntington Police Department of Defendant, Josh Nield, and hereby stipulate and agree as follows:

1. Defendant represents it has produced all written materials from said file,

except for cell phone records, and Facebook pages of the alleged victims, with redaction of privacy related information, pursuant to the Protective Order previously entered herein;

2. Defendants have not produced video and audio recordings contained in said file, except to the extent that at least one of the video recordings involving Defendant Nield and the individuals involved in the subsequent incident, has been transcribed as part of the IA investigation and is included in the written materials;

3. Counsel for Plaintiff has agreed to accept and review all written materials produced herein, with the agreement and understanding that he is not waiving any right to later seek, and in fact expects to seek, the production of the video and audio recordings, cell phone records, Facebook pages, or any other items related to the investigation not yet identified, in question, consistent with the previous Order of the Court herein;

4. Counsel for the Defendants agrees and stipulates that counsel for the Plaintiff has agreed to review the written materials first in an attempt to determine if there is any room for compromise with respect to the request for the video and audio recordings, cell phone records, Facebook pages, or any other items related to the investigation not yet identified, referenced herein, but that counsel for the Plaintiff is not waiving any rights to obtain said recordings the Plaintiff may have pursuant to the previous Orders of the Court pertaining to this matter; and,

5. Upon completion of the review of the written file materials produced herein, counsel for Defendants and Plaintiff will discuss and work to resolve any

issues which may remain with respect to the production of the IA file materials related to the subsequent incident.

6. Plaintiff believes this issue is moot as the identity to the two alleged victims was already disclosed by the City of Huntington in discovery production as seen in Exhibit 2, filed under seal in Plaintiff's Response to Defendant, City of Huntington's, Objections to Magistrate's Order Granting Plaintiff's Motion to Compel and Request for Hearing. Defendants disagree that the issue is moot. Nevertheless, Plaintiff will review what has been provided to determine if further production is needed.

**Agreed to by:**

/s/ Steven K. Nord  
Steven K. Nord, Esquire (WV Bar #2748)  
Ryan Q. Ashworth, Esquire (WV Bar #10451)  
**OFFUTT NORD BURCHETT, PLLC**  
949 Third Avenue, Suite 300  
Post Office Box 2868  
Huntington, West Virginia 25728-2868  
*Counsel for City of Huntington and Josh Nield*

/s/ Richard W. Weston  
Richard W. Weston, Esquire (WV Bar #9734)  
Connor Robertson, Esquire  
Weston Law Office  
337 Fifth Avenue  
Huntington, WV 25701  
*Counsel for the Plaintiff*

IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT HUNTINGTON

LUMUMBA EARLE, individually and  
as the Personal Representative of the  
ESTATE OF ANNIE EARLE, deceased,

Plaintiff,

v.

Civil Action No.: 3:14-cv-29536

CITY OF HUNTINGTON, d/b/a  
CITY OF HUNTINGTON POLICE DEPARTMENT,  
a municipal corporation, JOSH NIELD, individually  
and in his official capacity, ST. MARY'S MEDICAL  
CENTER, INC., d/b/a ST. MARY'S MEDICAL CENTER,  
TAMMY PEYTON, individually and in her official capacity,  
TARA RAMSEY, individually and in her official capacity,  
BOBBI ADAMS, individually and in her official capacity,  
MELISSA BLAGG, individually and in her official capacity,  
ANDREA HEATH, individually and in her official capacity,  
CABELL COUNTY 911, CABELL COUNTY COMMISSION,  
TED GRANT, individually and in his official capacity,  
PATRICK WATKINS, individually and in his official capacity,

Defendants.

CERTIFICATE OF SERVICE

The undersigned, counsel for the Defendants, City of Huntington and Josh Nield, certifies that the foregoing "STIPULATION AND AGREEMENT BETWEEN PLAINTIFF AND DEFENDANTS, CITY OF HUNTINGTON AND JOSH NIELD, REGARDING PRODUCTION OF IA FILE RELATED TO SUBSEQUENT INCIDENT INVOLVING DEFENDANT, JOSH NIELD," was served upon counsel of record, via electronic filing this 8<sup>th</sup> day of March, 2017:

Robert M. Sellards, Esquire  
Alexander L. Turner, Esquire  
Nelson Mullins Riley & Scarborough, LLP  
PO Box 1856  
Huntington, WV 25719-1856  
*Counsel for St. Mary's Medical Center, Inc., d/b/a St, Mary's Medical Center; Peyton, Ramsey, Adams, Bagg, and Heath*

Richard W. Weston, Esquire  
Connor Robertson, Esquire  
Weston Law Office  
337 Fifth Avenue  
Huntington, WV 25701  
*Counsel for the Plaintiff*

Clifford Paskel, Esquire  
Paskel, Tashman & Walker, PC  
24445 Northwestern Hwy, Suite 102  
Southfield, MI 48075  
*Counsel for the Plaintiff*

Lee Murray Hall, Esquire  
Nathanial A. Kuratomi, Esquire  
Jenkins Fenstermaker, PLLC  
Post Office Box 2688  
Huntington, WV 25726-2688  
*Counsel for Cabell County 911, Cabell County Commission, Ted Grant, and Patrick Watkins*

/s/ Steven K. Nord

---

Steven K. Nord, Esquire (WV Bar #2748)  
Ryan Q. Ashworth, Esquire (WV Bar #10451)